



CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

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Public Hearing Date:	July 13, 2010
Land Use Action Date:	September 21, 2010
Board of Aldermen Action Date:	October 4, 2010
90-Day Expiration Date:	October 11, 2010

DATE: July 9, 2010

TO: Board of Aldermen

FROM: Candace Havens, Interim Director of Planning and Development
Alexandra Ananth, Senior Planner

SUBJECT: Petition # **151-10**, PIE PIE LLC d/b/a CONTINENTAL for a SPECIAL PERMIT/SITE PLAN APPROVAL to waive 9 parking spaces in order to expand an existing 24-seat café to a 48-seat restaurant at **796 BEACON STREET**, Ward 6, Newton Centre, on land also known as Sec 61, Blk 36, Lot 2, containing approx 3,945 sq ft of land in a district zoned BUSINESS 1. Ref: Sec 30-24, 30-23, 39-19(d)(13), and 30-19(m) of the City of Newton Rev Zoning Ord, 2007.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



EXECUTIVE SUMMARY

The subject property consists of a 3,945 sq. ft. lot improved with an 11,242 sq. ft. two-story brick building on Beacon Street in Newton Centre, between Union Street and Langley Road, across from the Newton Center Triangle Parking Lot. Pie Bakery + Café currently occupies 1,860 sq. ft. of the building on the ground floor with 24 seats. Currently the restaurant operates with counter service and customers can bring their food to their own tables or the staff will bring it from the kitchen. The petitioners are proposing to renovate the space and add an additional 24 seats (including ten bar seats where the existing counter service is located) for a total of 48 seats. The new restaurant would have a full wait staff with up to nine employees on the largest shift.

The property is located in a BU-1 zone, which allows for a restaurant use with up to 50 seats by right. However, in order to allow for the additional seats the petitioner must seek a special permit for a parking waiver for nine parking stalls. The restaurant is not able to offer any parking on-site.

The expansion of a restaurant use in this location is consistent with the 2007 *Newton Comprehensive Plan*, which supports strengthening viable businesses that contribute to the vitality of Newton's village centers, and the 2008 *Newton Centre Task Force Final Report*, which encourages a diverse mix of retail uses in infill locations to enliven Newton Centre. Although the site is located close to four municipal parking lots and recent studies of Newton Centre indicate there is sufficient parking to accommodate the requested waiver, the Planning Department is concerned that the proposed increased intensity of the use will lead to increased traffic congestion in the area and suggests the petitioner seek ways to reduce parking demand by patrons and employees.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When considering this request, the Board should determine if the following findings apply:

- The proposed restaurant use will positively affect Newton Centre by increasing the vitality of the commercial district.
- The granting of a waiver for nine parking stalls will not have adverse affects on parking, traffic, and circulation in the Newton Centre commercial district or adjacent residential streets.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

Located on the south side of Newton Centre on Beacon Street, the subject property is part of a block zoned Business 1, bounded by Union Street and Langley Road. There are four large municipal parking lots in the immediate neighborhood including the Pelham and Pleasant Street lots, the Cypress Street lot, and the Newton Centre "Triangle" lot. Together these lots include approximately 391 metered spaces (although some recently have been "bagged" as part of the employee parking trial) and there is on-street metered parking in the immediate area as well. The MBTA Green Line and the 52 Bus Line, which runs from Watertown to Dedham, serve Newton Centre. Just west of the subject property is a bank, and just

east is a fitness center.

B. Site

The 3,955 sq. ft. site consists of an approximately 11,242 sq. ft. two-story multi-tenant brick building, which takes up most of the lot. Other tenants in the building include a yoga studio, a personal fitness training center and a cosmetic dentistry office. There is no parking for any of the uses in the building. The parcel is abutted to the west and east by other commercial properties.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The existing restaurant, Pie Bakery + Café, is a 24-seat bakery and café. The petitioners are proposing a 48-seat restaurant with proposed hours of operation from 11:00 a.m. to midnight Monday through Friday and 9:00 a.m. to midnight Saturday and Sunday. The petitioner has stated that weekdays from 11 a.m. to 2 p.m. and 6 p.m. to 10 p.m. Thursday through Saturday are expected to be the busiest times, with up to nine employees staffing the restaurant and kitchen on the largest shift.

B. Building Design

The petitioners are not proposing any changes to the exterior of the building. Inside the restaurant the petitioners are proposing to locate a bar area where the existing counter display and service is currently. The petitioners are also proposing a line of banquet seating, some table seating, and an HC accessible bathroom. The remainder of the space will contain food prep space. The petitioners use the basement area for office space, employee lockers and dry storage.

C. Parking and Circulation

There are no parking spaces associated with the subject property. Since the building was constructed before the City enacted parking regulations for commercial properties the parking formula of A-B+C applies. The site has a parking credit of ten stalls based on the previous use, but must seek a waiver of nine additional stalls based on the parking requirement of 19 stalls for 48 seats and up to nine employees on the largest shift.

As two recent special permit projects submitted parking studies for the Newton Center area and the Planning Department has access to studies completed by the Newton Centre Task Force, no parking study was required from this petitioner. Although previous studies of Newton Centre have provided evidence that there is sufficient parking within a five-minute walking radius of Newton Centre to accommodate the requested waiver, the Planning Department has some concerns relating to the proposed nine-stall waiver. The Planning Department is concerned that parking availability within a reasonable walking distance of the proposed expanded restaurant will be inadequate to meet the actual demand *at certain times* and the Planning Department is concerned that motorists circling though the

Newton Center area seeking an available parking space, will add to the traffic congestion in the area.

As the Board of Aldermen recently approved three special permits in Newton Centre, which included parking waivers (including the Deluxe Town Diner), the Planning Department is concerned that the availability of parking in close proximity to the proposed diner will be further reduced in the near future. The Planning Department is also concerned that the petitioners have not propose traffic mitigation funds or plans to either to supplement parking elsewhere or to reduce demand for parking in the area. Although the Planning Department is actively exploring parking in-lieu fees, no proposal has yet been adopted. Panera Bread has contributed \$25,000 towards installation of a pedestrian-activated signal and has committed to making improvements to the City's Pelham Street Lot. While the Deluxe Town Diner is located at the MBTA station, it secured some parking off-site for employee use. As such, the Planning Department believes the petitioner should provide some compensatory contribution or other relevant public benefit. Although some other projects have not made a direct contribution to the City as part of the mitigation plan for parking waivers the Planning Department notes those projects were more on the periphery of Newton Centre and had other extenuating factors such as preserving a historic structure, proximity to public transportation, improving a public footpath, and improved signage for municipal parking lots.

The Planning Department notes that the seasonal seating in "The Triangle" lot was very popular last summer, but has not been funded this year. The Planning Department estimates the cost for permanent seating is about \$5,000 and an annual contribution of \$1,000 is needed to make this program happen annually.

Contemporary parking policies employed in other cities allow for reductions in parking requirements where uses are in close proximity to transit stations, so consideration may be given to this feature at this location. To further reduce the demand for parking, staff recommends the petitioner establish a transportation demand management plan that includes strategies for getting patrons and employees out of their cars or by encouraging them to park farther away from the restaurant, such as in the underutilized Pelham or Pleasant Street lots where parking passes can be obtained for long-term metered parking. The Planning Department also notes that since there is a significant level of commercial activity in Newton Centre, some business will come from residents and employees who will walk to the proposed restaurant as well as those that are in Newton Centre for other reasons and will park once and enjoy the restaurant along with other proximate amenities.

D. Landscape Screening, Lighting, and Signage

The petitioner did not submit any information regarding lighting or signage and should do so prior to being scheduled for a Working Session if they are proposing any changes. Any signage should also be submitted to the Urban Design Commission for review and approval.

IV. COMPREHENSIVE PLAN

The November 2007 *Newton Comprehensive Plan* advocates for an economic development program based on three complementary principles: preserving residential amenities, strengthening business in Newton's village centers, and promoting commercial development along Newton's commercial corridors. It supports fostering viable businesses to enhance the commercial real estate tax and employment bases and encouraging such businesses to embrace locations in vibrant, attractive, mixed-use village centers. With its location in Newton Centre and successful track record in its current iteration, the petitioner's restaurant is consistent with the aims of the Comprehensive Plan. Furthermore, the new concept of this renovated restaurant offers the potential to complement existing dining options in Newton Centre and to expand offerings with an evening focus, rather than the lunchtime focus of many businesses in the village. This evening/weekend focus can contribute to a lively village character, and the lack of parking may present a lesser problem during evening hours. The petitioner's restaurant is also consistent with the aims of the 2008 *Newton Centre Task Force Final Report*, which encourages, among other things, retail uses other than banks and beauty salons, neighborhood-oriented businesses, and infill development within the bounds of the Newton Centre area.

The goals of the *Comprehensive Plan* to maintain a desirable quality of life would be further supported if the proposed business offered incentives for employees and customers to take advantage of alternative forms of transportation and/or demonstrate how surrounding neighborhoods will benefit from the proposed petition.

V. TECHNICAL REVIEW

- A. Technical Considerations (Section 30-15 and Section 30-19). The Zoning Review Memorandum, dated May 25, 2010 (*ATTACHMENT "A"*), provides an analysis of the project with regards to the City's zoning regulations. The building is legally nonconforming and no changes are proposed. The petitioners are seeking a waiver of 9 required parking spaces in order to accommodate the proposed 48-seat restaurant and required staffing levels on the largest shift.
- B. Other Reviews
 1. Engineering and Fire Department Review. As the petitioner is not proposing any changes to the site or building, no Engineering or Fire Department review was required. Should the Board choose to approve this petition, these departments will review plans prior to the issuance of a building permit.
 2. Traffic. Senior Transportation Planner David Koses contributed to the Parking and Circulation section of this report.
 3. Urban Design Commission. Prior to the issuance of a building permit, the Planning Department recommends the Urban Design Commission and Planning Department review any proposed signage.

I. ZONING RELIEFS SOUGHT

The petitioners are seeking approval through or relief from:

- Section 30-19(d)(13), & 30-19(m), to waive 9 required parking spaces.

II. SUMMARY OF PETITIONERS' RESPONSIBILITIES

Prior to scheduling for a Working Session, the petitioner should provide the following:

- *The petitioner should submit information regarding proposed lighting or signage.*
- *The petitioner should submit a transportation demand management plan with incentives for employees and customers to take advantage of alternative forms of transportation and/or demonstrate how surrounding neighborhoods would benefit from the proposed petition.*

ATTACHMENTS

ATTACHMENT A: Zoning Review Memorandum, dated May 25, 2010


ATTACHMENT B: Zoning Map

ATTACHMENT C: Land Use Map

Zoning Review Memorandum

Dt: May 25, 2010

To: John Lojek, Commissioner of Inspectional Services

Fr: Eve Tapper, Chief Zoning Code Official
Candace Havens, Interim Director of Planning and Development 

Cc: Stephen J. Buchbinder, representing Pie Pie LLC
Ouida Young, Associate City Solicitor

RE: Request to waive nine parking spaces.

Applicant: Pie Pie LLC

Site: 796 Beacon Street Zoning: BU-1 Current use: Pie Bakery and Cafe	SBL: Section 61, Block 36, Lot 2 Lot Area: 3,945 square feet Proposed use: 48-seat restaurant
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Background:

The subject property consists of a 3,945 square foot lot currently improved with a bakery and café with 24 seats. Currently, customers order food from the counter and bring the food to their own tables. The proponent would like to renovate the existing café to create a sit down restaurant with 48 seats and a full wait staff and bar. The following review is based on plans and materials received to date as noted below.

Plans and materials reviewed:

- Letter from Stephen J. Buchbinder to Eve Tapper dated May 21, 2010
- Memo from John D. Lojek, Commissioner of ISD to the Newton Licensing Board dated August 10, 2007
- Letter from Stephen J. Buchbinder to John Lojek dated July 24, 2007
- Affidavit of Barbara S. Levy, dated July 20, 2007
- Letter from Martin T. Tan to Eliot Conviser dated August 2, 2004
- "Continental Restaurant and Bar, 796 Beacon Street, Newton Centre, MA 02459," dated May 20, 2010, signed and stamped by Donald Lang, Registered Architect
- "Site Plan Newton, Massachusetts Showing Existing Conditions at #796 Beacon Street," dated May 14, 2010, signed and stamped Joseph R. Porter, Professional Land Surveyor
- "Area Plan Newton, Massachusetts at #796 Beacon Street," dated May 14, 2010, signed and stamped by Joseph P. Porter, Professional Land Surveyor

Administrative determinations:

1. The property is located in the BU-1 zone. The proposed new use, a restaurant having not more than 50 seats, is allowed in this zone by right per Section 30-11(a)(9).
2. The existing use is a cafe with 24 seats. Since the building was constructed and occupied before the City enacted parking regulations for commercial properties, Section 30-19(c)(2) of the Zoning Ordinance applies. The chart below shows the

number of parking spaces that have been grandfathered for the previous/existing use and the number of spaces required for the proposed use per the requirements of Section 30-19(d)(13).

Use	Calculation per Section 30-19(d) per use	Existing Use	Spaces Required for Existing Use (Variable B)	Proposed Use	Spaces Required for Proposed Use (Variable A)
Restaurant	1 space/3 seats and 1 space/3 employees	24 seats and 6 employees	10 (8+2)	N/A	N/A
Restaurant	1 space/3 seats and 1 space/3 employees	N/A	N/A	48 seats and 9 employees	19 (16+3)
TOTAL			10		19

3. Section 30-19(c)(2) outlines a formula ($A-B+C$ = number of required spaces) to determine how many on-site parking spaces must be provided with a change of use in a building. Variable A is the number of off-street parking stalls required under 30-19(d) for the proposed use. Variable B is the number of off-street parking stalls that would have been required for the previous or existing use. And Variable C is the number of off-street parking spaces located on-site. In this case, there are no parking spaces on-site so Variable C equals zero. Therefore, the formula $A-B+C$ translates into $19-10+0=9$. The result of this calculation is the number of spaces a new use needs to provide over and above the number of spaces required by the previous use. For the subject application, the proponent will need to provide nine additional spaces on-site for the proposed restaurant use or obtain a special permit from the Board of Aldermen under Section 30-19(m) to waive these required parking spaces.

4. See "Zoning Relief Summary" below:

Zoning Relief Summary		
Ordinance	Site	Action Required
§30-19(d)(13), 30-19(m)	Waive nine required parking spaces.	SP per §30-24

Zoning Map

796 Beacon St.

Legend
796 Beacon Street
Building Outlines
Single Res. 1
Single Res. 2
Single Res. 3
Business 1
Business 2
Business 4
Business 5
Limited Manufacturing
Manufacturing
Multi-Res. 1
Multi-Res. 2
Multi-Res. 3
Multi-Res. 4
Mixed Use 1
Mixed Use 2
OS/Rec.
Public Use

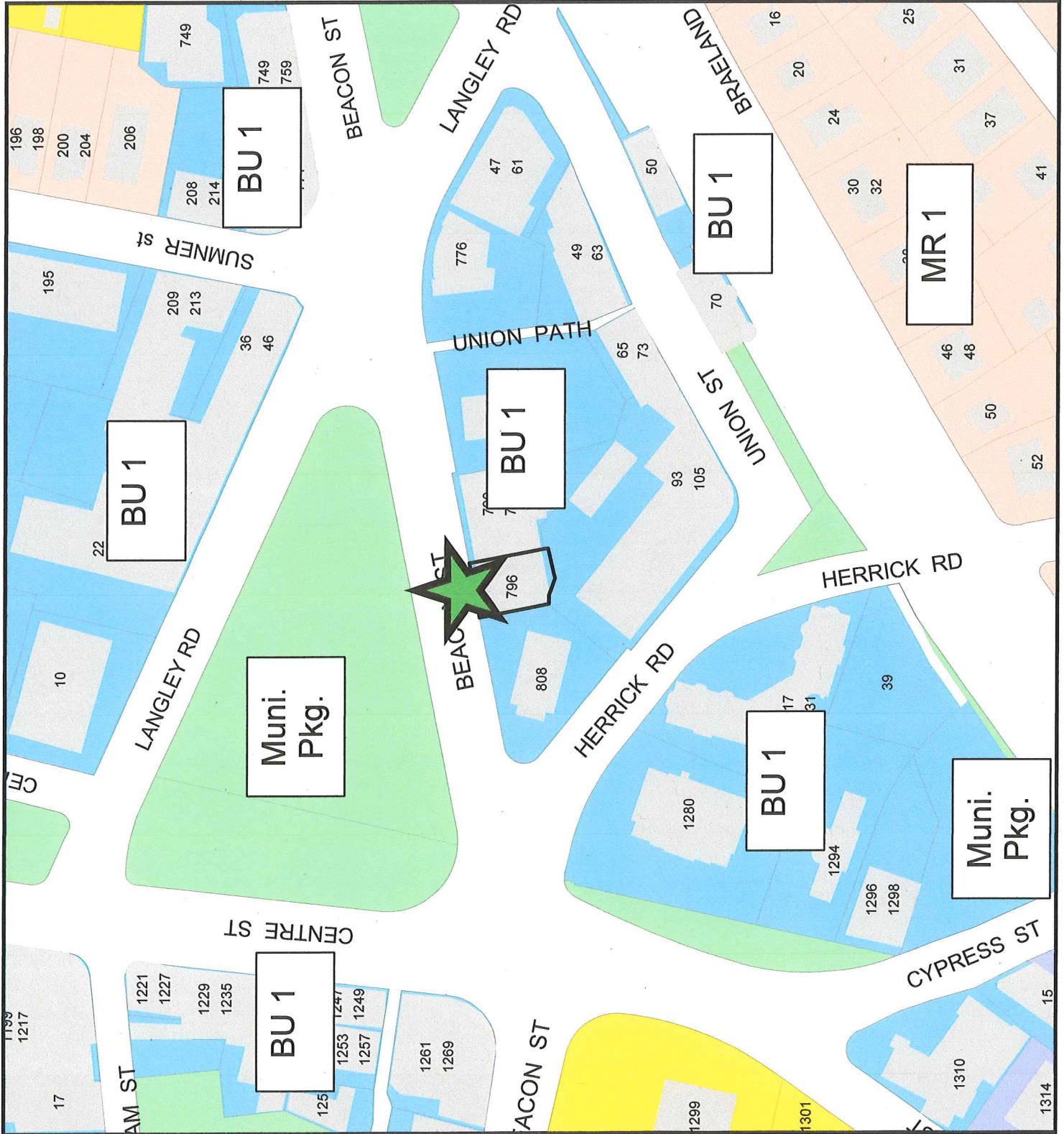


ATTACHMENT B

The information on this map is for informational purposes only. The City of Newton cannot guarantee the accuracy of the information. Each user of the information is responsible for determining its suitability for their own purposes. City departments approve applications based on the information provided.



MAP DATE: Ju



Land Use Map

796 Beacon St.

Legend	
796 Beacon Street	
Building Outlines	
Single Family Residential	
Multifamily Residential	
Commercial	
Industrial	
Mixed Use	
Vacant Land	
Golf Course	
Open Space	
Private Educational	
Nonprofit Organizations	
Public Housing	
Tax Exempt	
Unspecified	



ATTACHMENT C

The information on this map is derived from the Geographic Information System (GIS) maintained by the City of Newton. The City cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for their purpose. City departments may not approve applications based on this map.



MAP DATE: Jul

